

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK**

IN RE 22ND CENTURY GROUP, INC.  
DERIVATIVE LITIGATION

Lead Case No. 1:19-cv-00479-JLS

**JOINT STATUS UPDATE**

Plaintiffs Stephen Mathew and Cindy Maloney, the Executrix of the Estate of Melvyn Klein (“Plaintiffs”), nominal defendant 22nd Century Group, Inc. (“22nd Century Group”), and individual defendants James W. Cornell, Richard M. Sanders, Nora B. Sullivan, Henry Sicignano, III, and John T. Brodfuehrer (together with 22nd Century Group, the “Defendants”), pursuant to the Court’s February 15, 2023 Order (ECF No. 23, the “Order”), hereby submit the following joint status update:

1. The above-referenced derivative action (the “Derivative Action”) was stayed pending the close of fact discovery in the related securities class action captioned, *Bull v. 22nd Century Group, et al.*, Case No. 1:19-cv-01285 (W.D.N.Y.) (the “Securities Class Action”). ECF No. 23, ¶ 2.

2. On March 21, 2023, plaintiffs and defendants in the Securities Class Action participated in a mediation that resulted in the settlement of the Securities Class Action, pending approval of the settlement agreement by the Court. On October 23, 2023, the Court approved the Class Action settlement and dismissed the Class Action with prejudice.

3. The parties in this Derivative Action have been engaging in ongoing settlement discussions and attended a half-day mediation on October 17, 2023. Those discussions are continuing actively, and the parties anticipate executing a memorandum of understanding regarding settlement.

DATED: November 13, 2023

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DATED: November 13, 2023

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